

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 500 of 1997 decided on 26.9.98.....

14

Name of Applicant: Sh. Sunendra Bhakti

By advocate: Sh. A.K. Tripathi

Versus

Name of Respondents: Union of India.....

By advocate : Sh. R.P. Aggarwal

Corum

Hon'ble Mr. N. Sahu, Member (A)

1. To be referred to the Reporter or not? Yes.

2. Whether to be circulated to other Benches of the Tribunal? No.


(N. Sahu)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 500 of 1997

New Delhi, this the 2nd day of June, 1998

(Hon'ble Mr. N. Sahu, Member (A))

Sh. Surindra Bhakta, S/O Late
Inder Deo Bhakta, Aged about 40
years, R/O 392, Devli, New Delhi,
Working as Pharmacist in the
Office of 2nd Res.BN, C.I.S.F.
Saket, New Delhi - 110 017.

(By Advocate: Sh. A K Trivedi)

Versus

1. Union of India Through its
Secretary, Ministry of Home
Affairs, North Block, New
Delhi.
2. The Director, Central
Industrial Security Force,
Block No. 13, C.G.O.
Complex, Lodhi Road, New
Delhi - 110 003.
3. The Commandant, 2nd Res.
BN, C.I.S.F., Saket, New
Delhi - 110 017.

(By Advocate -Sh. R P Aggarwal)

O R D E R

By Mr. N. Sahu, Member (Admnv) -

The applicant has been denied the Hospital
Patient Care Allowances w.e.f. 1.4.1987. This allowance
is granted by Govt. of India to Groups 'C' and 'D'
(non-ministrial) hospital employees w.e.f. 1.4.87 by
their order dated 5.3.90. The respondents contend that
this allowance was granted subject to certain conditions.
One condition is that, the hospital should have a
capacity of 30 or more beds. The Battalion in which the
applicant worked has a small dispensary. The sanctioned
strength is one Medical Officer, two Pharmacists and one
Nursing Orderly. It was not designed nor meant for

in-door patients. No patient has been admitted in the dispensary so far. There is no patient care and, therefore, this allowance is not admissible to the applicant. The second point raised by the respondents is that the applicant joined the Central Industrial Security Force (CISF) on 15.4.1985 as a Compounder and he has made this claim after 10 years. It is true that he was re-designated as a Pharmacist on 29.6.1996 but that does not enhance the applicant's case for the allowance.

2. Counsel for respondents vehemently urged that the dispensary caters only to the need of outdoor patient. As specified conditions are not fulfilled, there is no justification for his claim. There was also a contention that the applicant did not route his representation through proper channel. The counsel for applicant relied on a decision of C.A.T. Hyderabad Bench in the case of Baby M.P. & Others Vs. Union of India & Others - OA 1246/95, on this point. Referring to earlier decision of the Guwahati Bench as well as to the decision made by the same Bench before, the Hyderabad Bench allowed the claim for Patient Care Allowance. The counsel for applicant further states that the C.I.S.F. Hospital to which he is attached is fully equipped and he has performed round-the-clock duty for a period of two years. He did night duty continuously for two years. It is further urged that the Hospital Patient Care Allowances is uniformly paid to all the Pharmacists including those who worked in the dispensary. The attention of the Court was drawn to the OM dated 2.9.1997 issued by the Ministry of Health and Family Welfare for grant of Patient Care

17

Allowance to the employees of C.G.H.S. This allowance has also been granted to the employees of C.R.P.F. Hospital which is a Sister Organisation.

3. Counsel for the applicant has drawn my attention to Annexure - C (page 2), wherein the condition of 30 or more beds is only applicable to Hospitals in the Union Territories. This condition is mentioned only to hospitals at Sr. No. 9 and is not applicable to first 8 categories. If in these 8 categories, groups 'C' and 'D' employees are working, they are entitled to this allowance. Counsel for applicant has drawn my attention to Annexure - D dated 5.3.1990, wherein this allowance is given irrespective of the fact whether the hospital has facility of beds or not. The only condition is that no night wages and risk allowance, if sanctioned by the Govt., will be admissible to those employees who intend to draw the patient care allowance. On 20.2.1998, faced with the above, the counsel for respondents sought another opportunity to consult Ministry of Health and Family Welfare and if the Health Ministry cleared the applicant's claim for this allowance for working in a Dispensary without in-door patient facility, then Sh. Aggarwal, counsel for respondents agreed that this claim could be allowed. His second submission is that this claim can be restricted only to one year prior to the date of filing of the OA.

4. At the time of re-hearing on 29.5.1998, counsel for respondents could not produce any reply or clarification from the Ministry of Health and Family

(18)

Welfare. The fact remains that in C.G.H.S. there are no indoor patient facilities and yet Patient Care Allowance is paid to Group 'C' and 'D' staff of C.G.H.S. in Delhi.

5. Counsel for applicant has placed on record the pay slip of Sh. Banwari Lal Aggarwal, Pharmacist for November 1997 and December 1997. This Pharmacist has been paid Patient Care Allowance at the rate of Rs. 70 per month. After perusal of Annexure - D, I am satisfied that this condition of 30 beds is only attached to the Union Territory Hospitals and does not extend to all other Medical Establishments. Very rightly, the counsel for applicant has pointed out that the C.G.H.S. does not have any bed facility for treatment of patients. They also treat patients in a way similar to CISF dispensaries.

6. The applicant is a Pharmacist and he dispenses medicines. He has filed certain documents to show that for taking X-rays and Ultra Sound, the applicant has to spend considerable time with the patient and it is not as though that his whole job is only to dispense medicines. Patient care is a word with a view to wide amplitude and does not confine only to care of indoor patients admitted for treatment into hospitals.

7. In view of the decision of the Hyderabad Bench of CAT and as similar allowances are allowed to Pharmacists in CRPF and CGHS Dispensaries without any bed facility, I do not find any justification to disallow the claim of the applicant. With regard to the restriction of the claim, I find that this application was filed on

(5)

(9)

28.2.1997. The Patient Care Allowance was effective from 1.4.1987. Although, the claim is not hit by limitation because it is a recurring money claim, yet the applicant has no explanation as to why he has been silent for over a decade.

8. In this view of the matter, I direct the respondents to pay to the applicant the Patient Care Allowances from 1.4.1995 at the prescribed rates within 8 weeks from the date of receipt of a copy of this order.

Narayanan
(N SAHU) 2-6-98

MEMBER (A)

/sunil/